

ENVIRONMENTAL AND POLLUTION PREVENTION GUIDEBOOK



PREPARED BY
DCMDE-O

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DCMDE ENVIRONMENTAL AND POLLUTION PREVENTION GUIDEBOOK FOR CAO FUNCTIONAL SPECIALISTS

GENERAL INFORMATION

DoD Program Managers (PMs) are required to incorporate environmental consideration into their system acquisitions according to DoD Directive entitled, "Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs." This document can be accessed by clicking onto this web-site:

<http://web.deskbook.osd.mil/default.asp?rware/dadwork/WebDADSearch.html>

Reference Library, Mandatory Documents, DoD Documents, and finally scrolling down **to DoD 5000.2-R** and opening the document.

Paragraph 1.4.6 concerns a PM's responsibility for demilitarizing a system and assuring that any hazardous substances are managed in a manner that minimizes future consequential environmental liability. Paragraph 3.3.7 emphasizes to the PM that the acquisition strategy must include an environmental evaluation. The environmental evaluation is described in paragraph 4.3.7. The PM's responsibility is to perform an environmental assessment as required by the National Environmental Policy Act and take appropriate action to minimize effects on the environment. Actions are planned to coincide with program milestones and their status must be reported before proceeding with the next milestone. Also within this paragraph and all its subparagraphs, the document states that all programs must comply with all environmental laws of the land. These external constraints (how the environmental laws affect the programs) must be identified and integrated into program execution to minimize cost and schedule risks. The document encourages the use of processes with more friendly environmental substances where technically feasible and states that the use of hazardous materials should be kept to a minimum throughout the system's life cycle. The PM must establish a pollution prevention program to minimize risks to the environment. DoD 5000.2-R requires the PM to assure environmental issues are considered throughout a system's life cycle.

The overall DCMC guidance concerning the DCMC environmental support program (ESP) can be found by clicking on: <http://www.dcmc.hq.dla.mil/Teaminfo/ap2i/ecmdod/index.htm>, entitled "Environmental Considerations in the Management of DoD Contracts." The essence of the ESP responsibility is quoted partially from one of the links to the previous web site, "DCMC Environmental Policy

The DCMC environmental policy is for everyone to be 'sensitive to' and 'aware of' contractor environmental practices, processes, operations and facilities; that is,

don't stick your head in the sand. If you see a problem, don't ignore it. . . .

protect the government's investment. Integrate environmental concerns into the performance of your contract management activities."

It is fundamental to our contract administration services (CAS) customer support focus that all DCMC specialists, when performing their normal duties, should be vigilant to environmental issues at the contractor's work-site and/or facility. If you observe a condition (e.g., leaking or rusty storage barrels, unusual odors, barrels stored in corridors of working areas or in unauthorized areas, puddles of miscellaneous liquid on the floor, stained floor areas, chemicals stored without proper protection, etc.) that you believe presents risk to personnel safety or health or to the environment, it is your responsibility not to ignore the situation. You should pursue the issue by alerting the contractor and elevating your concern as you deem appropriate. The main objective of environmental sensitivity is to protect the government's interest from incurring significant future remediation costs stemming from present and future contract performance.

From the **CAS** standpoint there are three acquisition phases that DCMC requires our involvement, preaward (including Early CAS, prior to preaward), postaward, and closeout/disposal phases. The DCMC environmental support program (ESP) is specifically referenced in nine chapters in the One Book. The requirement for the preaward phase is contained in the Preaward Surveys chapter. The requirements in the postaward phase are contained in these seven chapters:

Program Integration,
Integrated Logistics Support,
Systems Planning, Research, Development and Engineering,
Test and Evaluation Management,
Deliverable Technical Data-Rights in Technical and Other Data and Copyrights,
Supplier Quality Assurance,
Packaging Management, and
Contract Safety Requirements - Ammunition, Explosives and Other Postaward Hazardous/Safety Requirements.

The requirement in the closeout/disposal phase is contained in the Plant Clearance chapter. The ESP involves the entire spectrum of DCMC functional specialists. All functional specialists should be environmentally sensitive to the ESP policy, and should integrate appropriate **risk-based surveillance activities** into their respective functional responsibilities. The current and future liabilities for non-compliance with environmental laws could be extremely costly both to the contractor and to the government programs. There are environmental points of contacts (EPOCs) assigned at each CAO.

Hyperlinks to each chapter by phase are provided below. Access the One Book via the web at; <http://web-site.dcmc.hq.dla.mil/onebook/tblofcon.htm> and expand the One Book Directory.

PREAWARD PHASE: Prior to the preaward phase in One Book chapter 1.1, it states that DCMC should offer buying activities the "Right Advice" by assisting them in constructing more effective language into the RFP and/or solicitation documentation. Because of our knowledge of the product processes or prospective contractors' processes, we should recommend environmental language be included in the solicitation documentation in order to contractually emphasize environmental considerations. In the **preaward phase** the Preaward Survey Manager's (PSM's) Guidebook limits the DCMC comments to whether an environmental regulatory agency lists the prospective contractor as a violator. When the term, "environmental regulatory agency" is used in this document it should be interpreted as inclusive of all levels of regulatory agencies including federal, state, and local. The <http://epls.arnet.gov> is the web-site for the List of Parties Excluded from Federal Procurement and Non-Procurement. For a modus operandi read Appendix A. The PSM Guidebook is accessible from the above DCMC One Book web-address. Step-by-step access instructions consist of clicking on 1.3 entitled Preaward Surveys, ***paragraph 4.D.14) and then click on to the hyperlinked, paragraph G.11.***

POSTAWARD PHASE: In the **postaward phase** the main thrust is on pollution prevention to eliminate pollution at the source rather than dispose of it and the "end of the pipeline." The various DCMC CAO functional specialists, QARs, engineers, ISs, etc., must be aware of the contractor's processes or planned processes to ascertain if there is any possibility of substituting a hazardous material or process with a more environmentally friendly one. It is also incumbent on the DCMC specialists when reviewing the contract (specifications, standards, technical orders, etc.) to determine if the contract stipulates a hazardous material or process. The buying activity should be contacted when the DCMC specialist determines that the contract requires the use ozone depleting substances or requires the use of an unfriendly environmental material or process, such as volatile organic compounds (VOCs) when a more environment-friendly material or process exists. For the Packaging and Transportation Specialist, the One Book states that the challenges of packaging and shipping hazardous material should be considered as a factor in the risk-based surveillance plan. In the case of ammunitions and explosives, the One Book contains detail requirements for the Specialized Safety Manager to follow to assure that the contractor manages hazardous materials properly throughout the material's life cycle. For a modus operandi read

Appendix B. For the specific seven postaward One Book chapters that reference the ESP, [click on 2.1, paragraph 4.F.8\)a.III.f\); 2.3, paragraphs 4.F.2\) and 4.F.6\); 4.1, paragraph 4.F.6\); 4.1.1, paragraph 4.F.5\)a.; under 4.2.1, paragraph 4.F.2\)b.; 4.4, paragraph 4.F.1\)d.; 4.4.4, paragraph 4.F.5\).; and 5.3, paragraph 4.F.6\)a.VII.](#)

CLOSEOUT/DISPOSAL: In the **closeout/disposal phase**, the main thrust is to assure that the hazardous waste disposal process adheres to hazardous waste statutory requirements. The One Book states that when hazardous waste is disposed of, the waste material must be manifested properly. For a modus operandi read Appendix C. For the specific contract closeout phase One Book chapter that references the ESP, [click on 10.2.1, paragraphs 4.F.4\)c., 4.F.7\)c.IV., and 4.F.9\)b.III.](#)

Below are opportunities (not mentioned specifically in the One Book) where other DCMC functional specialists (internal customers) and the buying activities and/or Program Offices (external customers) may benefit from value-added services of an environmentally aware specialist.

Examples of internal areas of opportunity are:

- a. Technical Support to Negotiations when a price/cost analyst (P/CA) or negotiator need technical assistance in the evaluation of a contractor's cost proposal that includes direct or indirect environmental costs,
- b. Forward Pricing Rate Agreements or Forward Pricing Recommended Rates when a P/CA or negotiator need technical assistance in the evaluation of overhead accounts that contain environmentally related costs, e.g., compliance and/or remediation costs,
- c. Property Surveys when the Property Administrator (PA) wants to assure proper environmental usage of Government furnished property or facilities during the contractor's performance on a contract,
- d. Post Award Conferences when the ACO requests technical assistance in addressing environmental contractual requirements, and
- e. Technical Assistance when the ACO requests an evaluation of the contractor's environmental management practices to determine whether they adversely impact contract performance or cost.

Examples of external areas of opportunity are:

- a. Early Contract Administration Services when the buying activity requests environmental input during the acquisition strategy, solicitation and/or contract development phases,
- b. Letters of Delegation, Letters of Instruction, Support Agreements, Memoranda of Agreement and/or Understanding (normally applicable at Government Owned Contractor Operated facilities or privatized depots) when the customer requests:
 - (1) Periodic reviews of wastewater sample effluent reports as required by the National Pollutant Discharge Elimination System or municipal discharge permits,
 - (2) Reviews of environmental remediation status or study reports,
 - (3) Reviews of follow up actions resulting from multi-media (e.g., air, water, endangered species, etc.) DoD Military Service, EPA, State, or municipal environmental oversight agencies, and
 - (4) Environmental Baseline Reviews (normally at privatized depots where DCMC has contract administration cognizance) to ascertain the inventory, usage, and management of environmentally hazardous substances used in the contractor's processes.

We hope this informational message whets your Environmental appetites. Please share this with other functional specialists within your CAO, especially those e.g., contract specialists, PAs, PSMs, P/CAs, plant clearance officers, engineers, production and QA personnel, you believe could utilize our value-added environmental services. We hope this provides you up-to-date Environmental information available in the One Book and available from other sources via the worldwide web (WWW).

If we can be of further assistance contact us: Steve Kraus, District East Northern sector, or Bill Loeser, District East Southern sector. We both can be found on the e-mail global listing. If you want to read more information concerning the ESP and have access to active hyperlinks, read Appendix D. Some of the citations are already in text form for your convenience.

Note: If you have any concerns regarding environmental liability, by all means consult with your supervisor and your local Office of Counsel. Similar concerns have been expressed in the past and the classic response is that if your actions are deemed to be within your overall duties of your position, then chances are that you should not be held liable. In other words, the organization will provide a defense for your actions against claims. This is not a legal opinion however!

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APPENDIX A

Preaward Survey Environmental Factor Box Checked Off on Form 1403

Preaward Survey Manager (PSM) requests technical assistance from the Environmental Point of Contact (EPOC). A portion of FAR Part 23 prescribes acquisition policy and procedures supporting the Government's program for protecting and improving the quality of the environment through pollution control, energy conservation, identification of hazardous material, and use of recovered material. The person assigned to perform the environmental portion of the PAS should familiarize him/herself with the applicable FAR 23 environmental policy and the FAR 52 environmental clauses and unique environmental requirements language that are specified in the solicitation. Contained herein is a list of FAR and DFARS 52 and 252 environmental clauses that could be specified in the solicitation. You may see some or none of these clauses.

- 52.223-1 Clean Air and Water Certification (deleted/reserved via FAC 97-15)
- 52.223-2 Clean Air and Water (deleted/reserved via FAC 97-15)
- 52.223-3 Hazardous Material Identification and Material Safety Data
- 52.223-4 Recovered Material Certification
- 52.223-5 Pollution Prevention and Right-to-Know Information
- 52.223-7 Notice of Radioactive Materials
- 52.223-8 Estimate of Percentage of Recovered Material for Designated Items to be Used in the Performance of the Contract (deleted/reserved via FAC 97-1; rolled into FAR clause 52.223-9)
- 52.223-9 Certification and Estimate of Percentage of Recovered Material Content for EPA Designated Items
- 52.223-10 Waste Reduction Program
- 52.223-11 Ozone Depleting Substances
- 52.223-12 Refrigeration Equipment and Air Conditioners
- 52.223-13 Certification of Toxic Chemical Release Reporting
- 52.223-14 Toxic Chemical Release Reporting
- 252.223-7000 Hazard Warning Labels
- 252.223-7002 Safety Precautions for Ammunition and Explosives
- 252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials
- Miscellaneous clauses - Unique and/or tailored clauses, etc.

Clauses -1 and -2 have been cancelled. In the past, all contracts greater than \$100K contained these clauses. FAR Case 97-033 was submitted to seek regulatory relief from CA & W certification. A final rule has been published in Federal Acquisition Circular (FAC) 97-15, Item I. This final rule amends the FAR and removes Subpart 23.1, Pollution Control and Clear Air and Water and clauses 52.223-1 and -2. Offerors are not required to certify that they do not propose to use a facility for performance of the contract that is on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs." Violation code for CA & W is H1. Other EPA violations are coded H2. PCOs should not award contracts to any violating contractors listed and should assure that prospective bidders are not on the debarred listing.

Clause -3 requires the contractor to list any HAZ material that is shipped and supply a MSDS for it.

Clause -4 RCRA requires that the contractor certify that the % of recovered materials used in the contract complies with the contract.

Clause -5 imposes primarily the same community reporting requirements for toxic chemical usage/releases on Federal facilities as clause -14 imposes on contractors. Executive Order 12856 of August 1993 requires Federal compliance EPCRA.

Clause-7 Contractor must report the use of radioactive substances during contract performance.

Clause -8 was removed and reserved via FAC 97-1 effective 10/21/97. The requirement was rolled into Clause -9.

Clause -9 requires the contractor to certify that it met the % recovered material specified in the contractually specified document entitled, " Defense Logistics Agency Affirmative Procurement Program For EPA-Comprehensive Procurement Guideline Items." Examples of the commodities are paper products, insulation, carpeting, tires, lubricants, engine fluids, etc. It also requires the contractor to estimate the % of recovered material used in the contract by \$ value.

Clause -10 requires the contractor to establish a pollution prevention program.

Clause -11 requires the contractor to label products that contain ODS

Clause -12 requires the contractor to comply with Sections 608 and 609 of the Clean Air Act. The concern is the ODS contained in the refrigerant.

Clause -13 requires the offeror to either certify that it does or does not meet the reporting threshold for reporting toxic chemical usage IAW EPCRA.

Clause -14 requires the contractor to file its Toxic Chemical Release Inventory Form (Form R) annually if the reporting thresholds are met. The requirement is described in EPCRA and the Pollution Prevention Act.

Clause -7001 requires the contractor to label the item package (unit container) of any hazardous material to be delivered under the contract in accordance with the Hazard Communication Standard (29 CFR 1910.1200 et seq.)

Clause -7002 requires the contractor to comply with the requirements of the DoD Contractors' Safety Manual for Ammunition and Explosives, DoD 4145.26-M,

Clause -7006 prohibits the contractor from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation.

Step 1 Review the bid package to ascertain the applicable environmental requirements specified in the solicitation and inform the PSM that the EPOC will contact the requesting activity to determine the details and extent of the request when applicable.

Step 2 Explain the level of environmental review to be performed to the requester to assure a clear understanding concerning the DCMC role in performing the PAS. (Remember, according to FAR 23.107, EPA is the regulatory agency for enforcement of environmental statutes. The Nuclear Regulatory Commission enforces the laws governing the use, manufacture, treatment and disposal of radioactive substances.) Details are contained in the steps below. Is a recommendation of no award, partial award or full award requested? Does the buyer only want the EPOC to provide a status report of past and current environmental practices and how they might affect the contractor's capability to perform on the contract?

Step 3 Contact the local DCMC functional personnel, e.g., ACO, PI, and system type review teams, e.g., property review, purchasing system review, to ascertain if they have any environmental concerns with the contractor's operation.

Step 4 The EPOC should contact (via telephone as soon as possible before actually making the plant visit) the contractor. Obtain a list of what regulatory environmental related permits and/or licenses [e.g., hazardous waste (HW) transportation license, HW generator's permit, HW storage, treatment and

disposal permit, federal or municipal effluent discharge permit, air discharge permit, radioactive material use or manufacture permit] the contractor possesses or is applying for, their respective identification numbers, and the issuing agencies, prior to contacting the regulatory agencies. Also ask the contractor whether its facility is third party ISO 14000 series Environmental Management System certified.

Step 5 Contact the appropriate environmental regulatory agencies to determine if the contractor is operating in accordance with its applicable permits and/or licenses. Here are some examples of questions to ask or issues to consider. Have any agency environmental audits been performed recently (approximately in the last year)? Has the agency issued the contractor any notices of violation (NOVs)? Has the contractor negotiated any consent decrees to settle any NOVs? Note: NOV equivalency – Some regulatory authorities use terms other than NOVs to indicate a violation of environmental regulation, e.g., notices of noncompliance or notices of deficiency. Regulators may take other actions in lieu of issuing NOVs, e.g., issuing administrative orders, orders to comply, or corrective action orders. Be alert for any NOVs that are currently in process of resolution, especially critical (major) ones that might cause: licenses/permits to be revoked, large fines to be imposed, or extensive negative media exposure.

Step 6 Contact the contractor's environmental personnel and request an explanation of how their current or future environmental management system procedures and practices comply with any environmental contract requirements. **Remember you are not an Environmental Auditor, but are only attempting to ascertain contractor written procedure and practice Vs contract compliance, just as any other contractor procedure and practice, from a quality assurance standpoint.**

Step 7 If any recent (approximately in the last year) environmental regulatory audits were performed at the facility or contractor internal environmental audits were performed, request permission to review them for information purposes.

Step 8 Ascertain from the contractor, whether its facility real estate is a federal or state designated Superfund site or if the contractor is a potentially responsible party (PRP) associated with a Superfund site.

Step 9 Conduct a plant tour (inside and outside) noting any possible environmental concerns or observations, e.g., HW collection barrels in locations in and around the manufacturing areas, use of fluids in the manufacturing operations, use of vented hoods in the manufacturing areas, storage area for HW, on-site HW treatment facility, any effluent emanating from any exterior pipe or conduit either coming directly from a building or an unknown source, any exterior area showing unusual dead vegetation, any standing or running water whose color or smell is "different than expected," etc. **Remember you are not an Environmental Auditor.**

Step 10 Discuss observations with contractor representatives to assure proper understanding. If you are not satisfied with the contractor's explanations or if you need further assistance, call for help from the buying activity, District Environmental Manager or as a last resort (do not do this without your Commanding Officer's and legal counsel's permission) local, state or federal regulatory agencies.

Step 11 Write a report in accordance with the buying activity's request, e.g., if the buying activity requests a recommendation (no award, partial award or full award), the EPOC shall so respond and base the recommendation on all the information gathered from the contractor, regulatory agencies, independent on-site observations, or information furnished by DCMC sources. On a case dependent basis, the report should contain "qualitative" information for the buying activity to consider. It may ask the contractor to disclose ongoing environmental investigations and its opinion regarding the most probable outcome. This may enable the buying activity to carefully factor in this information during the contractor selection process or possibly avoid the financial risk of incurring remediation expenses. If the buyer merely wants a status report of the contractor's environmental practices without a recommendation, the EPOC shall so reply.

APPENDIX B

"Environmental Concerns: During the course of normal surveillance (underlines added) activities, the DCMC specialists shall be alert to the existence of hazardous materials in contractor processes and products. (underlines added) If such materials are required by contract, (underlines added) the possibility of using less hazardous materials may exist. The DCMC specialists shall contact the PCO (underlines added) and request notification of the Specification Preparing Activity (SPA) for further consideration. In addition, the specialists shall contact the District Environmental Manager, (underlines added) who will explore the potential for initiating a joint pollution prevention initiative with the contractor. District Environmental Manager should be consulted for clarification and assistance (underlines added) whenever questions about hazardous materials or waste arise."

What is normal surveillance? My interpretation of this expression is "those times" when the DCMC specialist is on the "floor" performing whatever functions (insight/oversight or any kind of surveillance) that are necessary to assure contractor compliance with the terms of the contract. Here are some rhetorical questions to consider for when "those times" are. Has the CAO established a Memorandum of Agreement with the customer(s) of your contract(s) that you are providing oversight/ insight for? Is there a letter of instruction or delegation that your organization is complying with? Have you negotiated with the contractor (with customer concurrence) to perform joint reviews/surveillance activities under the auspices of PROCAS, teaming, or process proofing? Are you inspecting product for workmanship and acceptability?

How does one become alert to the possible existence of the use of hazardous materials? Part of the alertness stems from knowledge of the contractor's processes, products, and review of the contract. Knowledge comes from walking around the facility and observing the operations and making intuitive reasoning. Here are some rhetorical issues to consider. Are there any processes where the contractor's employees wear respirators or are dressed in "space like suits" for personal protection? Are there any eye wash stations in close proximity to any of the contractor's process operations? Are there any hazardous waste collection stations with barrels marked with a hazardous material/waste label? In general, the barrel should be closed when not being filled, and the label should be legible and dated to denote start of the accumulation date (180-day storage allowed for small quantity generator and 90 days for large quantity generator, there are some exceptions). Does the contractor employ or contract for services that provide environmental, safety, and health expertise? Have you ever observed a hazardous waste transporter at the shipping dock? If you desire to ascertain the contractor's compliance history with State environmental statutes, or ascertain what type of environmental permits the contractor possesses, you may want to contact the respective state environmental regulatory agency where the contractor is located. To ascertain the status of licenses/permits contact the applicable permitting department/division. To ascertain the contractor's environmental compliance, contact the State's environmental compliance department/division. Suggest that you request the contractor to provide a list of hazardous substances used in the performance of the contract(s) and their applicable Material Safety Data Sheets. Review them. If the contractor is unable to provide you with this information in a reasonable length of time, you probably should be wary that there might be a glitch in the contractor's environmental management system and practices.

What are some examples of suspect hazardous processes? Here is a partial listing of processes that probably use substances that may contain environmental hazardous constituents, e.g., depainting (stripping), paint priming, painting, surface washing, degreasing, plating, etching, etc. These are just samples based on intuition.

What materials are required by contract? Review the contractual referenced specifications, the drawings, the contractor's internal manufacturing process sheets, the Hazardous Material Management Plan, etc.

The DCMC specialists shall contact the PCO. When you determine if any hazardous substances are used in the contractor's processes, and they are required by contract, you should inform the PCO if you know of any environmentally friendly substitutes.

The specialists shall contact the District Environmental Specialist. You should first contact the local CAO Environmental Point of Contact and then contact the District representative.

District Environmental Specialist should be consulted for clarification and for technical information and assistance. Again as we have stated in the previous paragraph our contact constitutes consultation. As far as advice concerning alternate processes, the District representative will supply you with various active web sites that you may want to surf. One WWW site to open is: <<http://www.jgapp.com/>> and click on "JG-PP Projects" for any project relevancy. Another site is: <<http://www.pewg.com/>>. This site is the Propulsion Environmental Working Group (PEWG) home page. This is a starting point to learn about the workings of the PEWG and determine whether any of the ongoing PEWG pollution prevention projects relate to your contractor's processes. You should then click on "PEWG Projects" and then into "Project Listing." There are numerous other Service oriented WWW sites relating to pollution prevention. The overarching goal is to make people aware of environmental issues and consider using more environmentally friendly processes. DCMC must be the impetus for change but the customer must be receptive to change. Unless pollution prevention is called out in the contract and funded as a line item, pollution prevention is a voluntary program. If you document your efforts and write a letter to the PCO requesting that he/she make contact with the SPA, the CAO will have demonstrated compliance with the intentions of the cited paragraph in the One Book.

APPENDIX C

THE HAZARDS OF HAZARDS - Environmental Issues Concerning Property Disposal of Government-Owned Hazardous Waste and/or Material

Plant Clearance Officers (PLCOs), do you know where your hazardous wastes (HW) are going? Are all the contractors in the disposal chain properly licensed and permitted to manage the HW stream? Can you recognize what types of excess property may contain a HW constituent? Is the disposition process in accordance with federal, state, or municipal statutes? Make sure that your contractors are identifying and disposing of HW properly. Consult with your local environmental and/or safety specialists if you have any doubts at all. If machine tools are being disposed, watch out for their hydraulic fluids. They could contain polychlorinated biphenyls (PCBs). PCB is a regulated substance under the Toxic Substance Control Act. Is electronic equipment being disposed? Watch out for transformers or capacitors that could contain PCBs in their dielectric fluids. Have you thought about recovering precious metals? Are excess government furnished materials being disposed, especially chemicals and paints? Request material safety data sheet for these types of products that are being disposed of to watch out for HW constituents. How can you know it all? Well, you cannot, that's why we recommend that you consult a specialist who can help you. If you have any doubts whatsoever concerning HW, contact the Environmental Specialist, even if the disposing contractor has not identified and/or characterized a HW in the inventory schedule. Are you sure that there is no HW constituent? Remember that it is incumbent on the disposing contractor (HW generator) to handle and characterize the waste properly, but an extra check will never hurt. What type of information should the contractor provide in the disposal plan (DP)? You can never be safe enough! Below is a suggested modus operandi that you and the specialist should follow.

The PLCO initially receives a DP from the contractor and reviews it. Does the PLCO suspect any HW even if the contractor has not specifically identified it? The PLCO should request specialist input concerning the disposal of unidentified suspected HW or the listed HW. If the contractor characterizes item(s) on the inventory schedule as HW, the DP should contain as a minimum, the disposing contractor's EPA HW generator's number (if applicable-contractor could be exempt), the HW transporter's name, address, and EPA transporter's license number and if known at the time of DP submittal, the names, addresses, and respective EPA HW treatment, storage and disposal facility permit numbers. The main thrust of the specialist's responsibility is to lessen the DoD's risk and/or exposure to possible future liability due to improper disposition of HW. The specialist's overall responsibility is to assure proper HW identification and/or characterization and to verify that all the contractors identified in the DP are in possession of valid licenses and/or permits to handle the HW. **NOTE:** It is the responsibility of the disposing contractor i.e., HW generator, to properly characterize the material as HW, not the Environmental POC. This DP review is not intended to evaluate the prime disposing contractor's rationale for its subcontracting decision nor the cost of disposal. It is also not intended to lessen and/or replace the statutory responsibility incumbent on the disposing contractor for proper HW disposal.

Step 1 Review the Inventory Schedule (SF 1428 or its equivalent) and the contractor's DP to assure that the items have been properly identified and/or characterized as HW. The contractor's input should contain rationale for the HW characterization. Examples of rationale are, Material Safety Data Sheet information, HW profile documentation that is based on the contractor's knowledge of the process that generated the waste, (**NOTE:** If deemed necessary, the specialist should verify the contractor's process with appropriate knowledgeable DCMC skilled resources.), written process description, test results, drawing that contains a list of the HW constituents, etc. If deemed necessary, personally view the HW items for a better understanding. [**BE SAFE!** Someone has determined that the waste is **HAZARDOUS TO HUMAN HEALTH. DO NOT TAKE UNNECESSARY RISKS!** If you intend to personally view the HW, ask the contractor what protective measures, e.g., personnel protection equipment, etc. are required. For any requirements above basic level D equipment, e.g., safety shoes, hard hat and/or safety

goggles, discuss the situation with your supervisor and contact both the District Occupational Safety and Health Office and either the District Environmental Specialist or Specialized Safety Manager for guidance.

Step 2 Assure that the DP lists all (known to the disposing contractor at the time of the DP submission) subcontractors in the disposal chain that will: package for transportation, transport, treat, store or dispose of the HW. Request that the disposing contractor provide rationale as to the choice of the listed contractor(s), especially if this is the first time the contractor has submitted a HW DP to the PLCO and the specialist has not processed a DP from the contractor.

Step 3 Contact (telephone for expediency) the state regulatory agency that has licensed or granted an operational permit to either the prime (for use or disposition of the material and/or waste) or to any subcontractor in the disposal chain that will package, transport, treat, store or dispose of the HW. Also contact the same state compliance division that periodically performs environmental compliance audits. In some states the licensing and/or permitting offices are one and the same. More than one state may have to be contacted depending on the location of the subcontractors in the disposal chain. Below is a suggested modus operandi when telephoning the regulatory agency(ies):

Identify who you are and why you are calling.

Identify the HW that is proposed for disposal.

Identify the contractors (prime and all subcontractors) that are listed in the DP.

Ask the regulator(s) if the listed contractors are currently in possession of valid licenses or permits to manage the hazardous substances.

Ask the regulator if the HW transporter is licensed to transport the HW through the various states on route to the next destination.

Ask the regulator(s) when the last time the contractor(s) was (were) subjected to a compliance review. Find out what the results were. For example, were there any notices of violation (NOVs) issued? If NOVs were issued have they been resolved? How serious were they? Did the NOVs jeopardize the license or permit status?

Request that the regulator(s) furnish you a copy of at least the cover page of the license or permit for the contractor if the PLCO did not obtain a copy from the disposing contractor. Some PLCOs may have already done so, therefore eliminate this step.

Step 4 **NOTE:** If the specialist has doubts or any unresolved issues, suggest that any questions and/or issues be elevated to the District Environmental Manager or District Office of Counsel via the CAO cognizant Counsel. Write a report containing a chronology of your telephone calls, citing all the information that was obtained and discussed. Identify all the individuals with whom you spoke, their titles and telephone numbers. If all the contractors in the disposal chain are validly licensed and permitted, so state. Make sure that you identify any areas of concern expressed by the regulators.

NOTE: Remember that DCMC does not recommend and/or suggest the use of any subcontractor(s) to the prime contractor. The conclusion of the specialist's report will recommend that the PLCO either concur or non-concur with the prime contractor's DP. The specialist's report will contain rationale for the recommendations made.

APPENDIX D

DCMC tells us to focus the majority of our efforts on the Acquisition Pollution Prevention Initiative (AP2I) program. The guidance for the AP2I program is interlinked with the DCMC homepage. If you click on WWW <<http://www.jgapp.com/ap2i4b.htm>> and then subsequently click on the three interlinked web sites at the bottom of this web page, you will know all about the AP2I program. If you want to know more about the various pollution prevention projects click on <<http://www.jgapp.com/>>. If you want to know about pollution prevention information in the propulsion sector click on <<http://www.pewg.com/>>. This is just a thumbnail sketch of what is available in cyberspace concerning pollution prevention. Each Service has its own site dedicated to its pollution prevention opportunities.

Another source of information concerning accepted process changes (inclusive of all business and product changes) at specific facilities can be found by clicking on the following WWW address <http://www.dcmc.hq.dla.mil/dcmc_o/oc/spi/index.htm> and then click on "Accepted (Modified) SPI Processes (DFARS 252.211-7005)" on that page. If you want to read the applicable DFARS clause, click on WWW site <<http://farsite.hill.af.mil/VDFDARA.HTM>>, click on 52 on the left side, then click on 252.000 to 252.214 on the right side) which should read, "DFARS Part 252 Clauses." Next scroll down to 252.211-7005 at the top portion of the page, entitled "Substitute for Military or Federal Specifications or Standards" and click on it.

Below is a thumb nail genesis of the why and wherefore concerning environmental issues. We have attempted to provide you with a compendium of web sites that you can access for additional information. The information provided below **should not, repeat, and should not** be considered as an all-inclusive reference and citation listing.

Let us first begin by summarizing some environmental considerations that are found in DoD Directive 5000.1 entitled, "Defense Acquisition." (There are many more implementing subtier DoD Instructions to implement this directive. You can access the full text of the document by clicking on WWW <<http://web.deskbook.osd.mil/default.asp?rware/dadwork/WebDADSearch.html>>, Reference Library, Mandatory Documents, DoD Documents, and finally scrolling down to DoDD 5000.1 and opening the document.) We quote partially from this directive,

" . . . This directive applies to all elements of the DoD. . . . This directive and 5000.2-R . . . rank first and second in order of precedence for providing mandatory policies and procedures for the management of acquisition programs . . . This directive describes broad management principles that are applicable to all DoD acquisition programs. . . ."

Rather than bore you with more specific citations from this regulation, we will attempt to summarize the environmental considerations addressed in DoD Regulation 5000.2-R. Paragraph 1.4.6 talks about demilitarizing a system and assuring that any hazardous material (synonymous with the term "hazardous waste" in the disposal process) is disposed of in a manner that minimizes future consequential environmental liability. Paragraph 3.3.6 states that the acquisition strategy must include an environmental evaluation. The environmental evaluation is described in paragraph 4.3.7. Within this paragraph and all its subparagraphs, the document states that all programs must comply with all environmental laws of the land. These external constraints (how the environmental laws affect the programs) must be identified and integrated into program execution to minimize cost and schedule risks. The document encourages the use of processes with more friendly environmental substances where technically feasible and states that the use of hazardous materials should be kept to a minimum throughout the system's life cycle. PMs must establish a pollution prevention program to minimize risks to the environment.

We realize that the DoD regulation is not normally a contractual requirement. The only way that PMs can comply with this regulation is to assure that Contracting Officers (COs) insert appropriate environmental

language into contracts to include all the environmental issues addressed in this regulation. DCMC should offer buying activities the "Right Advice" by assisting them in constructing more effective language into the RFP and/or solicitation documentation. Because of our knowledge of the product processes or prospective contractors' processes, we should recommend environmental language be included in the solicitation documentation in order to contractually emphasize environmental considerations. Absent contractual environmental language, the CAO will be unable to assess the contractor's environmental practices vs. the contract requirements.

Here are some FAR citations concerning environmental issues. Click on:

<<http://farsite.hill.af.mil/VFFARa.htm>> and then click on Part 23. Scroll down to the applicable environmental policy sections. The only caveat that we would offer about this section is that we believe that the Clean Air and Water Act certification requirements will be deleted in the next FAR revision. Part 23.000 is cited partially,

" 23.000 -- Scope of Part.

This part prescribes acquisition policies and procedures supporting the Government's program for . . . protecting and improving the quality of the environment through pollution control, energy conservation, identification of hazardous material, and use of recovered materials."

Now click "Back" and then click on Part 52. Scroll down to 52.223, entitled, "52.223 -- Environment, Conservation, Occupational Safety, and Drug-Free Workplace Provisions and Clauses."

This is the section of the FAR that contains the contract clauses that should be inserted by the Contracting Officer (either by reference or in detail) into the contract in accordance with the policies of Part 23. These clauses are cited in the FAR Part 23 section that describes the acquisition policies and procedures only. These are the applicable environmental contract clauses that you may find in some of the contracts that your CAO administers.

What does the FAR say concerning the contract administration aspects of environmental issues? Now click "Back" and then click on Part 42. Scroll down to 42.302 entitled, "Contract Administration Functions." This citation gives us our DCMC contract management/administration "marching orders" for assuring that the contractor lives up to many contract requirements. With regard to specific environmental requirements, scroll down to (68) cited below.

"Evaluate the contractor's environmental practices to determine whether they adversely impact contract performance or contract cost, and ensure contractor compliance with environmental requirements specified in the contract. Contracting officer responsibilities include, but are not limited to

(i) Ensuring compliance with specifications requiring the use of environmentally preferable and energy-efficient materials and the use of materials or delivery of end items with the specified recovered material content. This shall occur as part of the quality assurance procedures set forth in part 46.

(ii) As required in the contract, ensuring that the contractor complies with the reporting requirements relating to recovered material content utilized in contract performance."

DCMC HQ has proposed a revision to the above FAR citation as quoted below,

"42.302 Contract administration functions.

(a) *****

(1) to (67) *****

(68) ~~Evaluate~~—[Ensure] the contractor's environmental practices [are evaluated] to determine whether they adversely impact contract performance or contract cost, and ensure

[monitor] contractor compliance with environmental requirements specified in the contract.

Contracting officer responsibilities include, but are not limited to--

(i) Ensuring compliance with specifications requiring the use of environmentally preferable and energy-efficient materials and the use of materials or delivery of end items with the specified recovered material content. This shall occur as part of the quality assurance procedures set forth in Part 46.

(ii) As required in the contract, ensuring that the contractor complies with the reporting requirements relating to recovered material content utilized in contract performance.

[(iii) Requesting military department environmental technical assistance as necessary.]"

Information about environmentally preferable products can be accessed by clicking on <<http://www.caae.hq.dla.mil/>>, then "Links," then "DLA," then on either of three interlinks entitled, "Energy Efficient Lighting, DLA Environmental Products, or DLA Green Catalog." The "DLA Environmental Products" link may be the most useful information since it breaks the contents by commodity categories. Information about energy efficient-materials can be accessed by clicking <<http://www.caae.hq.dla.mil/>>, then "Library", then "Other Documents," and then on "Evaluation of EPA Comprehensive Procurement Guideline Items and Energy Efficient Products as Environmental Attributes." The document containing products with recovered materials can be accessed by clicking on <<http://www.caae.hq.dla.mil/>>, then "Library", then "Other Documents," and then on "Affirmative Procurement Program for EPA-Comprehensive Procurement Guideline Items Containing Recovered Materials."

What does the Federal Directory of CAS Components tell our customers concerning the environmental services our agency offers them? Click on <<http://www.dcmc.hq.dla.mil/CASBOOK/casbook.htm>> and then Section 1a. The second paragraph is quoted in part,

"Through its contract administrative offices located through-out the U.S. and the world, DCMC provides valuable services to contracting officers and program managers including: . . . (2) safety and environmental (underline added by writer) assurance"

What does the One Book have to offer us? Click on the One Book WWW <<http://www.dcmc.hq.dla.mil/onebook/tblofcon.htm>> and open up the One Book Directory and expand it.

Click on 1.3 entitled, "Preaward Surveys." Paragraph 4.D.14) is linked to the DCMC Preaward Survey Manager's (PSM) Guidebook that cites the following in the PSM Guidebook paragraph G.11.,

"Environmental/ Energy Evaluation

(a) OTHER FACTOR F -- Environmental/Energy Considerations (DLA 20F) -- An evaluation of the offeror's ability to meet specific environmental/ energy requirements contained in the solicitation. When this factor is checked and the solicitation does not contain specific environmental/energy requirements, the PSM should contact the PCO and clarify the requirement.

(b) When a request for a PAS contains environmental requirements, DCMC comments, on DLA form 20F, should be limited to whether Federal, State or local government lists the prospective contractor as a violator. A written statement should accompany any reporting of such violations from the environmental agency reporting the prospective contractor as a violator.

(c) A certified environmental specialist can only conduct evaluations requiring specific expertise. The PSM is responsible for determining the availability of certified personnel underlines added by the writer).

(d) When participating in the PAS, the environmental specialist may refer to the recommended procedures shown in Plant Safety Evaluation (above)." (It is in the guidebook not in this document-added by the writer for clarity.)

Click on 2.1 entitled, "**Program Integration.**" Paragraph 4.F.8)a.III.f) is cited partially,

" Other incidents likely to affect a contractor's ability to perform, i.e., plant closure, environmental concerns - (underlines added by author), significant layoffs, strikes, etc. . . "

Click on 2.3 entitled, "**Integrated Logistics Support.**" Paragraph 4.F.2) is cited partially,

" . . . If a standard, specification, or contract requirement calls for the use of environmentally damaging materials (e.g., ozone depleting substances), when less damaging alternatives exist, notify the Standard or Specification Preparing Authority."

Paragraph 4.F.6) is cited partially,

" . . . If a drawing, support/maintenance activity, or contractor developed item calls for the use of environmentally damaging materials (e.g., ozone depleting substances) - (ODS added by the author), when less damaging alternatives exist, follow the procedure in paragraph F.2. and F.3. (notify the Standard or Specification Preparing Authority - cited in paragraph F.2; issue a DD Form 1716, Contract Data Package Deficiency Report - cited in paragraph F.3. - added and inserted here by the author). In addition, the District Environmental Manager must be contacted, who will explore the potential for initiating a joint pollution prevention initiative with the contractor. District Environmental Managers should be consulted for clarification and assistance whenever questions about hazardous materials or waste arise."

If you want more information concerning ODS, the following is a WWW site extract from the 40 Code of Federal Regulations (CFR), Part 82 entitled, "Protection of Stratospheric Ozone." Click on <<http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1>> and insert the bold and underlined **40** CFR Part **82** Subpart **A** in the search document. It will take a while to open, so please be patient. You may want to scan the document visually for general information and to learn what products and processes may contain or use ODS. Towards the end of the document, Appendix F to Subpart A is a "Listing of Ozone-Depleting Chemicals." If you want to learn more about hazardous waste, return to the previous WWW and insert the underlined **40** CFR Part **261** Subpart **C**. This will provide you information on the characteristics of hazardous waste. Return and now change **C** to **D**. This Subpart contains lists of hazardous waste from non-specific (F) and specific sources (K), and acute (P) and toxic (U) hazardous wastes. If you have ready access to hard copies of the CFR, it may be easier to look at these.

The next five chapters also reference hazardous materials and processes required by contract. The DFARS has published policy concerning the use of contractually required ozone depleting substances. For information concerning this topic click on: <<http://farsite.hill.af.mil/VFFARa.htm>> and then click on the DFARS tab. Next click on the block 23 and scroll down to 223.803 entitled, "Policy" and open it up by clicking on it. The text should appear. Next click back until you return to the DFARS site and now click on block 11. Scroll down to 211.271 entitled, "Elimination of use of class I ozone-depleting substances." Click on this and the text should appear.

Click on 4.1 entitled, "**Systems Planning, Research, Development and Engineering.**" Paragraph 4.F.5) is cited partially,

" . . . If a contractual standard, specification, or drawing requires the use of environmentally damaging materials (e.g., ozone depleting substances) when less damaging alternatives exist, notify the Specification Preparing Authority or the PCO."

Click on 4.1.1 entitled, "**Test and Evaluation Management.**" Paragraph 4.F.5)a. is cited partially,

" . . . If a contractual standard, specification, or drawing requires the use of environmentally damaging materials (e.g., ozone depleting substances) when less damaging alternatives exist, notify the Specification Preparing Authority and/or the PCO."

Click under 4.2.1 entitled, "**Deliverable Technical Data - Rights in Technical and Other Data and Copyrights.**" Paragraph 4.F.2)b. is cited.

"During the course of normal surveillance activities, the DCMC specialist must be alert to the existence of hazardous materials in contractor processes and products. The specialist must inquire with the contractor and the buying command about the need for tech data to address hazardous and waste materials handling and disposal. If such materials are required by contract, the possibility of using less hazardous materials may exist. The DCMC specialists must contact the PCO and request notification of the Specification Preparing Activity (SPA) for further consideration. In addition, the specialists must contact the District Environmental Manager, who must explore the potential for initiating a joint pollution prevention initiative with the contractor. District Environmental Manager should be consulted for clarification and assistance whenever questions about hazardous materials or waste arise."

Click on 4.4 entitled, "**Supplier Quality Assurance.**" Paragraph 4.F.1)d. is cited.

"Environmental Concerns. During the course of normal surveillance activities, the DCMC specialists must be alert to the existence of hazardous materials in contractor processes, products/by-products, or wastes. If such materials are required by contract, the possibility of using less hazardous materials may exist. The DCMC specialists must contact the CAO environmental point of contact who will notify the PCO and request notification of the Specification Preparing Activity (SPA) for further consideration. In addition, the specialists must contact the District Environmental Manager, who will explore the potential for initiating a joint pollution prevention initiative with the contractor."

Click on 4.4.4 entitled, "**Packaging Management Program.**" Paragraph 4.F.5) is cited.

"The PS (Packaging Specialist-added by the writer) must develop a surveillance plan to monitor the contractor's packaging program. The plan must identify all surveillance activities, highlighting areas of risk that would suggest a need for increased surveillance. The plan must be a living document and must be monitored and updated to assure current information. The plan must also include areas of special consideration such as: material handling, Electrostatic Sensitive Devices (ESD), hazardous material and environmental considerations."

Click on 5.3 entitled, "**Contract Safety Requirements - Ammunition, Explosives and Other Postaward Hazardous/Safety Requirements.**" Paragraph 4.F.6)a.VII. is cited.

"flow of the process involving hazardous (explosive/energetic) materials and disposal/disposition procedures. Specifically, how do hazardous materials enter the facility, what happens to the hazardous materials within the facility (storage and in-process), under what controls do the hazardous materials move to/from each operation, and what happens to excess or unserviceable hazardous materials when the process is complete"?

Click on 10.2.1 entitled, "**Plant Clearance.**" Paragraph 4.F.4)c. is partially cited.

"The PLCO must assure that the following items are identified during inventory verification:

hazardous material; . . . Findings must be noted on SF 1423, Inventory Verification Survey."

Paragraph 4.F.7)c.IV. is cited,

"Any transactions involving the disposition of hazardous waste, including property or material contaminated with hazardous material that must be disposed of as hazardous waste, irrespective of acquisition cost."

Paragraph 4.F.9)b.III. is cited.

"EPA Form 8700-22A, Uniform Hazardous Waste Manifest, used to document all shipments of materials that are to be disposed of as hazardous waste, when applicable."

If you want more information concerning the manifest click on <<http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1>> and insert the bold and underlined **40** CFR Part **262** Subpart **B** in the search document. Hazardous generator manifest record keeping and reporting requirements are found in Subpart D and you can read this by changing from **B** to **D** in the previous search. Hazardous transporter manifest record keeping and compliance requirements are found in Part 263 Subpart B. Return to the search and insert Part **263** Subpart **B**. For the actual instructions on how to fill out the manifest (EPA Form 8700-22 - the graphic form is omitted from the site) click on (please be patient!) <<http://frwebgate4.access.gpo.gov/cgi-bin/waisgate.cgi?WAIIdocID=3928028022+1+0+0&WAISection=retrieve>> and scroll down just below Subpart G to "Appendix to Part 262."